



RE: CDE/South Plainfield Settlement

Kautsky, Peter (ENRD)

to:

Sanoff, Robert, Evans, Rachel (ENRD), Sarah Flanagan

05/14/2012 03:56 PM

Cc:

"Ettinger, Jonathan"

Hide Details

From: "Kautsky, Peter (ENRD)" <Peter.Kautsky@usdoj.gov>

To: "Sanoff, Robert" <RSS@foleyhoag.com>, "Evans, Rachel (ENRD)"

<Rachel.Evans2@usdoj.gov>, Sarah Flanagan/R2/USEPA/US@EPA,

Cc: "Ettinger, Jonathan" <JME@foleyhoag.com>

Thanks Robby, we will take a look and get back to you soon. Peter

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**From:** Sanoff, Robert [<mailto:RSS@foleyhoag.com>]

**Sent:** Monday, May 14, 2012 3:53 PM

**To:** Kautsky, Peter (ENRD); Evans, Rachel (ENRD); Flanagan.Sarah@epamail.epa.gov

**Cc:** Ettinger, Jonathan

**Subject:** CDE/South Plainfield Settlement

Peter, Rachel, and Sarah -- We've reviewed the current version of the Consent Decree and have the following comments (virtually all of which are clerical or minor):

- (1) In Background Section B. , the word "defendant" should be clarified to be CDE.
- (2) Paragraph 5, strike "of those acts or omissions"
- (3) Paragraphs 21 and 23, which set forth payment instructions, do you want to begin with the statement "Unless otherwise agreed upon by the parties" so we can change the payment method without going back to the Court?
- (4) On CDE's signature page, Foley Hoag LLP does not have a comma
- (5) On Appendix E, there is reference to a Home Insurance policy (No. HEC 9544304) which apparently was mentioned in the settlement between CDE and the New Jersey Insurance Guaranty Fund. We've checked and do not believe there is such a policy. You can leave in reference to it, but you should make a note that the policy is "alleged" or "to the extent it exists".
- (6) Appendix F contains a form of escrow agreement. We will enter into this agreement before the consent decree is entered, but the first page purports to list the specific anniversary dates (which will not be known

when we enter into the escrow). Those dates should be described as "On the first and second anniversary of the effective date of the Consent Decree".

(7) Appendix F has several references to Robert S. Sanoff which should be changed to Jonathan M. Ettinger.

We don't feel strongly about any of these changes other than (2). If you make that change (and any or none of the others listed above), you can issue the Consent Decree as an execution copy for CDE to sign.

Best regards,  
Robby and Jon

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